

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

**Phillip L. Williams, Sr. & Allyson E.
Williams**

Case No. 10-81248
Chapter 13

Soc. Sec. No.: xxx-xx-6659 and xxx-xx-3569
Address: 504 Stonelick Drive, Durham, NC 27703-

Debtors

MOTION FOR *NUNC PRO TUNC* APPROVAL OF MORTGAGE MODIFICATION

NOW COME the Debtors, by and through the undersigned attorney, pursuant to Sections 1303 and 363 of the Bankruptcy Code, requesting approval, *nunc pro tunc*, to modify a mortgage secured by the Debtor's principal residence, and also requesting approval of an attorney fee, and in support thereof, shows unto the Court as follows:

1. Debtors have filed a petition for relief in bankruptcy under Chapter 13 of the United States Code on July 16, 2010.
2. The Debtors are the owners of certain real property (hereinafter referred to as "said property") located in Durham County in the State of NC and more commonly known as 504 Stonelick Drive Durham NC 27703.
3. The Debtors were approved for a modification with BB&T mortgage, and without prior court authorization, the modification was finalized on May 16, 2011 and recorded by BB&T on June 30, 2011 in Book 6733, Page 522, Durham County Registry.
4. The following table sets forth the details of the modification:

Item	Amount
Unpaid balance owed on existing mortgage:	\$91,641.33
Closing costs:	(0.00)
Amount, if any, being pulled out of equity in subject real estate by the Debtors:	\$0.00
Interest Rate under modification:	6.25%
Term of new mortgage:	328 months
Monthly principle and interest payment:	\$582.80

Monthly payment including escrow for taxes and insurance:	\$806.40
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5. The monthly mortgage payment (included escrow amounts) before modification was \$833.53.
6. The monthly cost of the new mortgage will be less than the monthly cost of the current mortgage.
7. In addition to lowering their monthly mortgage payment, the Debtors wish to finalize the modification for the following reasons:
 - a. Re-amortizing the loan will allow the Debtors to cure their accumulated delinquency under terms more favorable than the current Chapter 13 plan. By lowering the total monthly mortgage payment, the Debtors are in a better position to successfully complete their plan.
8. The modification does not adversely affect the interests of the bankruptcy estate.
9. That \$350.00 is the reasonable value of the services provided and to be provided by the undersigned attorney for counseling the Debtors concerning the proposed mortgage refinancing, gathering information necessary to draft this application, drafting and processing this motion and the proposed order, extra follow-up to make sure that the ensuing order is obtained and transmitted to the closing attorney in a timely fashion to avoid delaying unnecessarily the projected closing of title. It is anticipated, based on many past experiences, that it will take at least 4 hours of attorney time to attend to said details.

WHEREFORE, the Debtors respectfully pray that the Court allow the said modification of the current mortgage, approve payment of the attorney fee through the Debtors' Chapter 13 plan in the Amount of \$350.00, and grant such other and further relief as to this Court seems just and proper.

Dated: June 28, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury L. Hicks

Koury L. Hicks
 N.C. State Bar No.:36204
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 Durham, N.C. 27705
 (919) 286-1695

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CERTIFICATE OF SERVICE

I, Renee Nolte, of the Law Offices of John T. Orcutt, P.C., certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age, and that on June 28, 2011, I served copies of the **Motion for Nunc Pro Tunc Approval of Mortgage Modification** and, by regular U.S. mail, upon the following parties (names and addresses):

Richard M. Hutson, II
Chapter 13 Trustee
Post Office Box 3613
Durham, NC 27702

Michael West
Bankruptcy Administrator
Post Office Box 1828
Greensboro, NC 27402

Phillip L. Williams, Sr. & Allyson E. Williams
504 Stonelick Drive
Durham, NC 27703-

Branch Banking & Trust Company
ATTN: Teffina Rosemond
Loss Mitigation
301 College St.
Greenville, SC 29601

Branch Banking & Trust Company
ATTN: Managing Agent
PO Box 1847
Wilson NC 27894

Branch Banking & Trust Company
ATTN: Tricia D. Woods
Asst. Vice President
PO Box 1847
Wilson, NC 27894

All creditors with duly filed claims as indicated on the Trustee's Report of Filed Claims.

/s Renee Nolte

Renee Nolte